

United States District Court

DISTRICT OF

United States of America ex rel.

RONALD CLEVELAND #N90847

(Full name and prison number)

(Include name under which convicted)

PETITIONER

vs.

MS. YOLANDE JOHNSON

(Warden, Superintendent, or authorized person having custody of petitioner)

RESPONDENT, and

(Fill in the following blank only if judgment attacked imposes a sentence to commence in the future)

ATTORNEY GENERAL OF THE STATE OF

MS. LISA MADIGAN - IL.

(State where judgment entered)

CASE NO:

08-466-JPH

(Supplied by Clerk of this Court)

FILED

JUN 30 2008

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS OFFICE

Case Number of State Court Conviction:

03CR26653-01

PETITION FOR WRIT OF HABEAS CORPUS - PERSON IN STATE CUSTODY

1. Name and location of court where conviction entered: The Circuit Court of

Cook County - CRIMINAL DIVISION

2. Date of judgment of conviction: OCT. 18TH 2004

3. Offense(s) of which petitioner was convicted (list all counts with indictment numbers, if known)

BURGLARY

4. Sentence(s) imposed: 15 YEARS

5. What was your plea? (Check one)

(A) Not guilty

(☒)

(B) Guilty

()

(C) Nolo contendere

()

If you pleaded guilty to one count or indictment and not guilty to another count or indictment, give details:

PART I -- TRIAL AND DIRECT REVIEW

1. Kind of trial: (Check one): Jury () Judge only (X)
2. Did you testify at trial? YES () NO (X)
3. Did you appeal from the conviction or the sentence imposed? YES (X) NO ()

(A) If you appealed, give the

- (1) Name of court: FIRST JUDICIAL DISTRICT
- (2) Result: AFFIRMED
- (3) Date of ruling: MAY 29th 2007
- (4) Issues raised: MY ATTORNEY WITHDREW AND FILED AN
"ANDERS BRIEF"

(B) If you did not appeal, explain briefly why not:

4. Did you appeal, or seek leave to appeal, to the highest state court? YES (X) NO ()

(A) If yes, give the

- (1) Result: Affirmed the Appellate Court's Decision
- (2) Date of ruling: _____
- (3) Issues raised: _____

(B) If no, why not: _____

5. Did you petition the United States Supreme Court for a writ of *certiorari*? Yes () No (X)

If yes, give (A) date of petition: _____ (B) date *certiorari* was denied: _____

PART II – COLLATERAL PROCEEDINGS

1. With respect to this conviction or sentence, have you filed a post-conviction petition in state court?

YES () NO (~~X~~)

With respect to *each* post-conviction petition give the following information (use additional sheets if necessary):

A. Name of court: _____

B. Date of filing: _____

C. Issues raised: _____

D. Did you receive an evidentiary hearing on your petition? YES () NO ()

E. What was the court's ruling? _____

F. Date of court's ruling: _____

G. Did you appeal from the ruling on your petition? YES () NO ()

H. (a) If yes, (1) what was the result? _____

(2) date of decision: _____

(b) If no, explain briefly why not: _____

I. Did you appeal, or seek leave to appeal this decision to the highest state court?

YES () NO ()

(a) If yes, (1) what was the result? _____

(2) date of decision: _____

(b) If no, explain briefly why not: _____

2. With respect to this conviction or sentence, have you filed a petition in a state court using any other form of post-conviction procedure, such as *coram nobis* or habeas corpus? YES ☒ NO ()

A. If yes, give the following information with respect to each proceeding (use separate sheets if necessary):

1. Nature of proceeding

Relief of Judgment

2. Date petition filed _____

3. Ruling on the petition _____

3. Date of ruling _____

4. If you appealed, what was the ruling on appeal? _____

5. Date of ruling on appeal _____

6. If there was a further appeal, what was the ruling? _____

7. Date of ruling on appeal _____

3. With respect to this conviction or sentence, have you filed a previous petition for habeas corpus in federal court? YES () NO ()

A. If yes, give name of court, case title and case number: _____

B. Did the court rule on your petition? If so, state

(1) Ruling: _____

(2) Date: _____

4. WITH RESPECT TO THIS CONVICTION OR SENTENCE, ARE THERE LEGAL PROCEEDINGS PENDING IN ANY COURT, OTHER THAN THIS PETITION?

YES () NO ☒

If yes, explain: _____

PART III -- PETITIONER'S CLAIMS

1. State briefly every ground on which you claim that you are being held unlawfully. Summarize briefly the fact supporting each ground. You may attach additional pages stating additional grounds and supporting facts. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds later.

BEFORE PROCEEDING IN THE FEDERAL COURT, YOU MUST ORDINARILY FIRST EXHAUST YOUR STATE COURT REMEDIES WITH RESPECT TO EACH GROUND FOR RELIEF ASSERTED.

(A) Ground one INEFFECTIVE ASSISTANCE OF COUNSEL BY TRIAL
Supporting facts (tell your story briefly without citing cases or law):

AND APPELLATE COUNSEL. THE TRIAL ATTORNEY-MR. OPPENHEIMER
INFORMED DEFENDANT RONALD CLEVELAND THAT THE STATE WAS
SEEKING A SENTENCE OF 3 TO 7 YRS. THE COURT ALSO STATED
A 3 TO 7 YR. SENTENCE PRIOR TO TRIAL (VOID JUDGEMENT)

(B) Ground two "DENIAL OF RIGHT TO APPEAL"-THE FIRST
Supporting facts:

JUDICIAL DISTRICT STATED IN ACCORDANCE WITH THE
MANDATE OF THE ANDERS DECISION, WE HAVE CAREFULLY
REVIEWED THE RECORD IN THIS CASE, THE AFORESAID
BRIEF, AND FIND NO ARGUABLE MERIT TO BE
RAISED ON APPEAL, VIEWED IN THE LIGHT MOST
FAVORABLE TO THE PROSECUTION, WE FIND THIS EVIDENCE
ADDUCED AT TRIAL WAS SUFFICIENT ~~TO~~ ALLOW THE JURY
TO FIND THAT THE ELEMENTS OF BURGLARY WERE PROVED BEYOND A
REASONABLE DOUBT. THIS WAS NOT A JURY TRIAL, THIS WAS A BENCH
TRIAL. THE APPELLATE COURT STATED THEY CAREFULLY REVIEWED
THIS CASE.

~~REDACTED~~ THIS IS NOT PLAIN PLAIN ERROR, THE JUDGEMENTS
~~REDACTED~~
OF TWO DIFFERENT CASES GOT MIXED UP BY THE APPELLATE
COURT. THIS WAS NOT A JURY TRIAL.

(D) Ground ^{Three} ~~REDACTED~~ VOID JUDGEMENT -
Supporting facts:

THE COURT STATED IN OPEN COURT-THAT THIS CASE WAS A 3 TO 7
YEAR SENTENCE, PRIOR TO TRIAL, ON THE SAME DAY OF TRIAL, THE COURT
WAS UNCONSTITUTIONAL IN GIVING OUT A 15 YEAR SENTENCE.

2 Have all grounds raised in this petition been presented to the highest court having jurisdiction?
YES ☒ NO ()

3. If you answered "NO" to question (16), state briefly what grounds were not so presented and why not:

(D.) GROUND FOUR: AN EXCESSIVE SENTENCE -

THE COURT STATED IN OPEN COURT THE STATUTORY GUIDELINES IN THIS CASE - A 3 TO 7 YEAR SENTENCE - DEFENDANT RECEIVED A 15 YR. SENTENCE, AND A CLASS X SENTENCE WITH 3 YEARS OF (MSR). THERE WAS NO MENTION OF (MSR). "EQUAL PROTECTION OF THE LAW IS INTERPETED IN THE LIGHT OF THE PEOPLE, FOR THE PEOPLE" THE FIRST DISTRICT COURT STATED THAT EVIDENCE VIEWED PRIOR TO TRIAL IS OK, THAT WOULD BE

LOGICAL IF THIS WAS TRIAL STRATEGY, BUT... THIS WAS THE DECISION OF A REPLACEMENT ATTORNEY WHO FILLED IN FOR THE ORIGINAL ATTORNEY, WHO OBVIOUSLY HAD TOO BIG OF A CASELOAD. THE ONLY EVIDENCE WAS THE VIDEO TAPE - IS THERE NOT A GOOD TRIAL STRATEGY FOR THE STATE TO WITHHOLD THE VIDEO "TAPE" - OF COUSE IT IS GOOD STRATEGY, A UNDERHAND PROSECUTION. RONALD CLEVELAND BELIEVES HIS SENTENCING RANGE IS 3 TO 7 YEARS, AND THERE IS NO EVIDENCE AGAINST HIM. THAT ALL HE DONE WAS CARRY OUT GARBAGE BAGS, WHAT WAS IT - HE WAS CARRYING IN THE GARBAGE BAGS? WAS THIS THE TAPE FOR THE DAY OF THE BURGLARY? WAS THE TAPE ALTERED? IS THERE ANOTHER EMPLOYEE THAT LOOK LIKE RONALD CLEVELAND? HOW COULD ANY COMPETENT ATTORNEY ANSWER "READY FOR TRIAL", ESPECIALLY A SUBSTITUTE ATTORNEY? THE ILLINOIS COURTS WERE WRONG - A ATTORNEY ~~WHO~~ GOT SCHEDULING CONFLICTS HAVE NO EXCUSE. THERE WILL ALWAYS BE A

TOMORROW, SO WE WON'T MAKE A MISTAKE

TODAY. THERE IS A EXPERT ON TAPES "SOMEWHERE"
THIS ATTORNEY WAS NOT A EXPERT.

PART IV – REPRESENTATION

Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

- (A) At preliminary hearing DAVID WIENER - 53 W. JACKSON BLVD. (Suite 633) CHGO. IL. 60601
- (B) At arraignment and plea SAME ATTORNEY AS ABOVE
- (C) At trial MICHAEL OPPENHEIMER - SAME address AS WIENER ABOVE (COUNSEL PARTNER)
- (D) At sentencing BOTH ABOVE NAMED ATTORNEYS
- (E) On appeal _____
- (F) In any post-conviction proceeding _____
- (G) Other (state): _____

PART V – FUTURE SENTENCE

Do you have any future sentence to serve following the sentence imposed by this conviction?

YES () NO (☒)

Name and location of the court which imposed the sentence: _____

Date and length of sentence to be served in the future _____

WHEREFORE, petitioner prays that the court grant petitioner all relief to which he may be entitled in this proceeding.

X Signed on: 6-25-08
(Date)

Signature of attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct.

Ronald Cleveland
(Signature of petitioner)

#N 90847
(I.D. Number)

VIENNA CORR. CNTR. 6695 STATE RT. 146 EAST
(Address)
Vienna, IL. 62995

STATE OF ILLINOIS -- DEPARTMENT OF CORRECTIONS

ADJUSTMENT COMMITTEE
FINAL SUMMARY REPORT

Name: CLEVELAND, RONALD

IDOC Number: N90847

Race: BLK

Hearing Date/Time: 4/4/2008 09:44 AM

Living Unit: VIE-05-D-04

Orientation Status: N/A

Incident Number: 200801335/1 - VIE

Status: Final

Date	Ticket #	Incident Officer	Location	Time
4/1/2008	200801335/1-VIE	DALY, PHILLIP C	RECORD OFFICE	10:00 AM

Offense	Violation	Final Result
212	Frivolous Lawsuit <i>Comments: 03-CR-26653</i>	Guilty

Witness Type	Witness ID	Witness Name	Witness Status
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No Witness Requested

RECORD OF PROCEEDINGS

CHARGE READ TO INMATE, INMATE PLEADS NOT GUILTY. INMATE STATES HE DID FILE PETITION FOR POST CONVICTION RELIEF 2-1401 BUT DID NOT FEEL THE MOTION WAS FRIVOLOUS. INMATE STATES HE FEELS JUDGE FOX HAS SOMETHING AGAINST HIM PERSONALLY.

BASIS FOR DECISION

BASED ON WRITTEN REPORT FROM RECORD OFFICER SUPERVISOR PHIL DALY STATING THE RECORD OFFICE SUPERVISOR RECEIVED COURT ORDER FROM JUDGE LAWRENCE P. FOX DECLARING THAT PETITION FOR POST CONVICTION RELIEF (2-1401) OF INMATE CLEVELAND N90847 WAS DETERMINED BY JUDGE FOX TO BE FRIVOLOUS PER 730 ILCS 5/3-6-3(D). COURT ORDER FROM JUDGE FOX ALSO STATES \$105.00 IN FILING FEES AND COURT COSTS BE REPAID BY INMATE. (SEE ATTACHED)
POSITIVE ID OF INMATE BY INMATE PHOTO AND INMATE MASTER FILE.

DISCIPLINARY ACTION (Consecutive to any priors)

RECOMMENDED

Revoke GCC or SGT 6 Months
Restitution of \$ 105.00 Paid to COOK CO CIRCUIT
CLERK OFFICE

Basis for Discipline: SERIOUSNESS OF THE OFFENSE

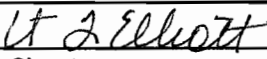

FINAL

Revoke GCC or SGT 6 Months
Restitution of \$ 105.00 Paid to COOK CO CIRCUIT
CLERK OFFICE

Signatures

Hearing Committee

ELLIOTT, TIMOTHY W - Chair Person

	04/04/08	WHI
Signature	Date	Race
	04/04/08	HSP
Signature	Date	Race

SUITS, BRENDA M

Recommended Action Approved

Final Comments: N/A

STATE OF ILLINOIS -- DEPARTMENT OF CORRECTIONS

ADJUSTMENT COMMITTEE

FINAL SUMMARY REPORT

Name: CLEVELAND, RONALD

IDOC Number: N90847

Race: BLK

hearing Date/Time: 4/4/2008 09:44 AM

Living Unit: VIE-05-D-04

Orientation Status: N/A

Incident Number: 200801335/1 - VIE

Status: Final

YOLANDE D JOHNSON / YDJ 4/8/2008

Chief Administrative Officer

Signature

04/08/08

Date

The committed person has the right to appeal an adverse decision through the grievance procedure established by Department Rule 504: Subpart F.

JAMES E REID

Employee Serving Copy to Committed Person

4/11/2008

01:00 PM

When Served -- Date and Time

2D-14-B

01.07.428A-J

SENTENCE CALCULATION WORK SHEET

REVOCATION OF GOOD CONDUCT CREDITS WHEN SENTENCE IS DETERMINATE
UNDER 1978 LAWNAME Ronald Cleveland NUMBER N90847 DATE 6/6/08

(STEP 1)

Yr. Mo. Day

3(Good Conduct Credits Revoked From
Sentence By Director On 6/13/08)(STEP 2) (MITTIMUS NUMBER 03CR2665301)

PROJECTED OUT DATE

Yr. Mo. Day

04 7 10

(Custody Date)

+ 7 6 (Sentence Less G.C.C.)12 1 10 (Projected Out Date or
PRB Projected Out Date)+ or - 12 13 10 (Previous Time - Lost/Awarded)+ 12 13 10 (Projected Out Date)+ 12 4 10 (Present Revocation)12 4 10 (Adjusted Projected Out Date)

(STEP 3)

MANDATORY OUT DATE

Yr. Mo. Day

04 7 10

(Custody Date)

+ 15 (Sentence)19 7 10 (Mandatory Out Date or
PRB Mandatory Out Date)Adj. Proj. Out Date 4-10-12Mandatory Out Date 7-10-19Calculated By Domie H. [Signature]Terminal Operator [Signature]Date Entered 6-6-08

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT



Criminal Division
2650 South California Avenue
Room 526
Chicago, Illinois 60608
(773) 869-3147
FAX (773) 869-4444
www.cookcountyclerkofcourt.org

OFFICE OF THE CLERK OF THE CIRCUIT COURT OF COOK COUNTY

March 28, 2008

Ronald Cleveland #N90847
Vienna C.C.
6695 State Rt. 146 East
Vienna, IL 62995

Dear Ronald Cleveland:

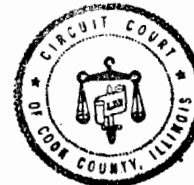
RE: Case Number 03CR26653-01


Please be advised that on 03/21/08, the Honorable Judge Lawrence P. Fox denied your motion for Petition for Post-Conviction Relief. Fees and Costs are assessed per the Draft Order. Attached are Orders signed by Judge Fox with the rulings..

If you have additional questions regarding this ruling, please contact your attorney, or the public defender.

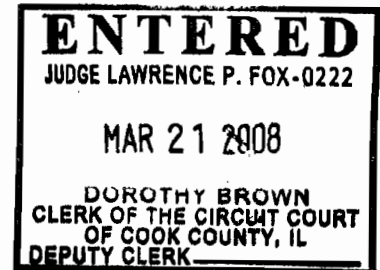
Office of the Public Defender, Cook County
2650 South California Avenue
7th Floor
Chicago, IL 60608
(773) 869-3222

Sincerely,
Dorothy Brown
Clerk of the Circuit Court of Cook County, Illinois



By:  Deputy Clerk
CCCR EF 18-2/4/2008. Motion Denied Letter.

3/21/08
2007



Vienna Correctional Center
6695 State Route 146 East
Vienna, IL 62995-3122

Re: People of the State of Illinois v. RONALD CLEVELAND
No. 03 CR 26653

Dear Mr. RONALD CLEVELAND

Enclosed herewith is a copy of the order entered this date dismissing your petition and ~~an~~
~~order~~ assessing filing fees and actual court costs. ~~Your motion for appointment of counsel and~~
~~leave to proceed in forma pauperis is likewise denied.~~ A copy of this order is being transmitted
to the Legal Department of Vienna Correctional Center for further action.

In the event you are desirous of appealing from the dismissal order, you have 30 days to
file a Notice of Appeal with the Clerk of the Circuit Court of Cook County.

Very truly yours,

Lawrence P. Fox
Judge Lawrence P. Fox
Circuit Court of Cook County
Criminal Division

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CRIMINAL DIVISION**

PEOPLE OF THE STATE OF ILLINOIS,

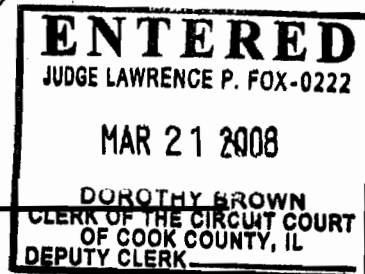
Plaintiff-Respondent

v.

RONALD CLEVELAND

Defendant-Petitioner.

03-CR-26653



ORDER

This matter having come on to be heard for assessment of court costs and fees pursuant to 735 ILCS 5/22-105 (West 2007), the court having denied the petition for 2-1401 on this date upon a finding that it was entirely frivolous in that:

1. it lacks an arguable basis in law or in fact;
2. it is being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;
3. the claims, defenses, and other legal contentions therein are not warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
4. the allegations and other factual contentions do not have evidentiary support or, if specifically so identified, are not likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; or
5. the denials of factual contentions are not warranted on the evidence, or if specifically so identified, are not reasonably based on a lack of information or belief.

IT IS THEREFORE ORDERED that petitioner be assessed the following filing fees and actual court costs in the amount of \$90: 00 for filing a petition 2-1401, plus \$15.00 in mailing fees pursuant to 705 ILCS 105/27.2 (West 2007). In satisfaction of this assessment, the Illinois Department of Corrections shall collect a first time payment of 50% of the average monthly balance of petitioner's trust fund account for the past six months. Thereafter, 50% of all deposits into petitioner's account shall be withheld until the assessment costs are collected in full. TOTAL \$105

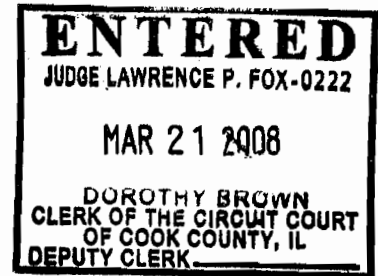
ENTERED: [Signature]

Judge Lawrence P. Fox
Circuit Court of Cook County
Criminal Division

DATED: 3/21/08

3/21/08
2008

Director Legal Department
Vienna Correctional Center
6695 State Route 146 East
Vienna, IL 62995-3122



Re: People of the State of Illinois v. RONALD CLEVELAND
03 CR-26653
Inmate # N90847

Dear Director:

Enclosed herewith is a copy of the order denying 2-1401 petition for post conviction relief ~~entered this date~~ ~~Also enclosed please find a copy of the order~~ *and* assessing filing fees and actual court costs pursuant to 735 ILCS 5/22-105 (West 2007).

Please be advised that inasmuch as the court also determined the petition to be frivolous pursuant 730 ILCS 5/3-6-3(d) (West 2007), this information is being forwarded for your determination as to such further action as may be deemed appropriate.

Should you have any questions or require any additional information, please do not hesitate to contact me at (773) 869-3203.

Very truly yours,

Lawrence P. Fox

Judge Lawrence P. Fox
Circuit Court of Cook County
Criminal Division

Enclosures



OFFICE OF THE CLERK OF THE CIRCUIT COURT OF COOK COUNTY

Date: *March 28, 2008*

Mr. Glenn Jackson
Chief Record Offices
Illinois Department of Corrections
1301 Concordia Court
Springfield, Illinois 62701

RE: Post Conviction Proceedings/Petition

Cook County Criminal Division Case Number: *03CR26653-01*

Mr. Jackson:

Pursuant to the attached order, one or more of the following may be applicable and may require your attention:

§ 730 ILCS 5/3-6-3 Rules and Regulations for Early Release

§ 735 ILCS 5/22-105 Frivolous lawsuits filed by prisoners

§ 705 ILCS 105/27.2 [Fees in counties with population between 500,000 and 3,000,000; local governments and school districts over 3,000,000]

Yours truly,
Criminal Division
Post-Conviction Team
773-869-5585

A handwritten signature, likely of the clerk, in dark ink.



105303

SUPREME COURT OF ILLINOIS
CLERK OF THE COURT
SUPREME COURT BUILDING
SPRINGFIELD, ILLINOIS 62701
(217) 782-2035

November 29, 2007

Mr. Ronald Cleveland
Reg. No. N-90847
Shawnee Correctional Center
6665 State Route 146 East
Vienna, IL 62995

No. 105303 - People State of Illinois, respondent, v. Ronald Cleveland, petitioner. Leave to appeal, Appellate Court, First District.

The Supreme Court today DENIED the petition for leave to appeal in the above entitled cause.

The mandate of this Court will issue to the Appellate Court on January 4, 2008.

C

STATE OF ILLINOIS

COUNTY OF Cook SS IN THEFirst Judicial DistrictPeople of the State of Illinois
RespondentCASE NO. 03 CR 26653-01RONALD CLEVELAND
vs

NOTICE OF FILING

ATTN: Dorothy BrownTO: CLERK OF the CIRCUIT COURT:

TO:

2650 S. CALIF AVECHGO, IL 60608

1 Original & ___ copy

___ copy(ies)

___ copy(ies)

PLEASE TAKE NOTE that on the 31ST day of JAN., 2008, I have filed, through the U.S. Mail, with the above named parties, the below listed documents (number of copies & originals filed are listed below the addresses of the parties):

1) Motion for Relief of Judgement

2) _____

3) _____

4) _____

5) _____

6) _____

7) _____

8) _____

AFFIDAVIT OF SERVICE

I, Ronald Cleveland, being first duly sworn on oath, deposes and avers that he/she has caused the above stated documents in the above stated amounts, to be served upon the above listed parties by placing the same in the U.S. MAIL BOX on Housing Unit # 1 located at VIENNA Correctional Center in VIENNA, IL for delivery as 1st Class Mail.

s/s Ronald ClevelandNAME: Ronald ClevelandIDOC Reg. No. N90847Subscribed and sworn to before me this 30th day of Jan, 2008

OFFICIAL SEAL
I, Karen Jones
Notary Public, State of Illinois
My Commission Exp. 06/05/2008
NOTARY PUBLIC

IN THE CIRCUIT COURT OF THE First JUDICIAL COURT
COOK COUNTY, ILLINOIS

PEOPLE OF THE STATE OF ILLINOIS)
Plaintiff-Respondent)

vs.)

No. 03 CR 26653-01

RONALD CLEVELAND)
Defendant/Petitioner)

PETITION FOR RELIEF FROM JUDGMENT

Petitioner, RONALD CLEVELAND, pro se, brings this petition pursuant to 735 ILCS 5/2-1401, the Court having jurisdiction of this matter pursuant to 735 ILCS 5/2-101. Petitioner submits the following information in support of his petition for relief from judgment:

1. My Register Number is N90847, and I am presently incarcerated at the VIENNA Correctional Center, 6695 St. Rt. 146 East, Vienna, Illinois 62995, in the custody of the Warden, Glenda JOHNSON.

2. The length of my sentence in Case No. 03CR26653-01, was 15 years for the offense(s) of Burglary

3. I was sentenced on Case No. 03CR26653-01 by the Circuit Court of COOK County, First Judicial Circuit, on 10-18, 2004, by the Honorable FOX, Judge Presiding.

4. My scheduled release date from the Illinois Department of Corrections is 1-10, 2012.

REASONS FOR GRANTING RELIEF

5. Stated under 730 ILCS 5/5-8-2 Extended Term (4) for a class 2 felony, a term shall be not less than 7 yrs. AND NOT MORE THAN 14 YEARS.

6. The court failed to make defendant aware that
he was facing an extended term prior to trial

7. Defendant received ineffective of counsel
assistance

8. Petitioner has submitted herewith his Affidavit In Forma Pauperis with attached Certification of Institutional Funds, by which he seeks approval of the Court to proceed as a poor person. Also submitted is proposed Order granting permission to proceed as a poor person without payment of fees.

9. Petitioner has attached his Affidavit In Support of Petition for relief from judgment in this cause of action.

WHEREFORE, Petitioner asks the Court to set aside the finding of guilty in Case No. 03CR26653-01 and grant him a new trial.

Respectfully submitted,

Ronald Cleveland

Petitioner

Reg. No. N 90847

6695 State Route 146 E.

Vienna Correctional Center
Vienna, IL 62995

STATE OF ILLINOIS)
)SS
COUNTY OF JOHNSON)

AFFIDAVIT

I, Ronald Cleveland, affiant, being first duly sworn upon oath, deposes and states that he is the maker of the attached Motion for Leave to Proceed in Forma Pauperis, that he has read the contents thereof, and that the contents therein are true and correct in substance and in fact, to the best of his knowledge and belief.

Dated this 31st day of JAN., 2008

s/ Ronald Cleveland
Petitioner
Reg. No. N 90847
6695 State Route 146 East
Vienna, Illinois 62995

DECLARATION UNDER PENALTY OF PERJURY

I declare (or certify, verify, or state) under penalty of perjury, that I am the plaintiff/pettitioner in the above Motion for Leave to Proceed in Forma Pauperis, and affidavit in support thereof, and that the information contained therein is true and correct. 28 U.S.C. §1746; 18 U.S.C. § 1621

Date: 1-31-08

Ronald Cleveland
Signature

THE CIRCUIT COURT FOR THE First JUDICIAL COURT
COOK COUNTY, ILLINOIS

People of the State of IL:)

RONALD CLEVELAND)

No. 03CR26653-01

MOTION FOR APPOINTMENT OF COUNSEL

The undersigned (Petitioner/Respondent), Ronald Cleveland, respectfully moves the court to appoint counsel for (him/her) in this cause. In support, (Petitioner/Respondent) states:

1. I have been incarcerated continuously since 7-10-04, and am presently held in custody and residing at the VIENNA Correctional Center in VIENNA Illinois, County of JOHNSON.
2. I am without sufficient income or assets with which to pay for the costs of these proceedings or to employ an attorney to represent me in this matter.
3. I am without the services of counsel to represent me in this matter and I wish the Court to appoint counsel to represent me in this matter.
4. I have a constitutional right to access to the courts, and without the assistance of counsel, my access to the courts will not be adequate, effective or meaningful because:
I AM NOT WELL VERSED IN LAW & THEREFORE, I NEED LEGAL ASSISTANCE
5. My (claim/defense) in this matter is not frivolous or malicious, but is colorable and meritorious.
6. Since this matter concerns the (condition/duration) of my confinement, I have sought (institutional/administrative) review of this matter through the proper grievance procedures before this action was filed. (At this point state what, if any, action was taken or decision that was made concerning your grievances).
I did not submit GRIEVANCE

WHEREFORE, (Petitioner/Respondent) Ronald Cleveland, respectfully requests that counsel be appointed to represent (him/her) in this matter.

Ronald Cleveland
 (Your Signature)

Type or print name RONALD CLEVELAND
 Register number N 90847

Vienna Correctional Center
 6695 State Route 146 East
Vienna, Illinois 62995-3122

IN THE CIRCUIT COURT FOR THE First JUDICIAL COURT
Cook COUNTY, ILLINOIS

People of the State of IL.

Ronald Cleveland

No. 03CR26653-01

APPLICATION TO SUE OR DEFEND AS A POOR PERSON

Applicant, Ronald Cleveland respectfully requests the Court, pursuant to Illinois Revised Statutes, ch. 110, sec. 5-105 [after 1992 see 735 ILCS 5/5-105] and Rule 298 of the Illinois Supreme Court, to grant (him/her) leave to (sue/defend) as a poor person; in support applicant states that the following facts are true in substance and in fact:

1. I am the (Petitioner/Respondent) in the above captioned legal proceedings.
2. I am a poor person and unable to (prosecute/defend) this action and am unable to pay the costs, fees and expenses of this action.
3. My occupation or means of subsistence:
 - (a) I am not currently employed due to my imprisonment at VIENNA Correctional Center but I receive (a state stipend/nominal wages) of \$ 10 per month.
 - (b) The amount and source of all other income or support are:
NONE
4. My total income for the preceding year was \$ IMPRISONED
5. The sources and amount of income expected by me hereafter are:
NONE
6. The nature and current value of any property, real or personal, owned by me:
 - (a) Real Estate: 0
 value: \$ _____
 - (b) Motor Vehicle: 0
 value: \$ _____
 - (c) Cash, savings, checking, etc. 0
 value: \$ _____
 - (d) Prison trust account: 0
 value: \$ _____
 - (e) Other (eg., T.V., etc.) _____
 value: \$ _____
7. No applications for leave to sue or defend as a poor person were filed by me or on my behalf during the preceding year, except as follows:
NONE
8. I believe in good faith that I have a meritorious (claim/defense).

Ronald Cleveland
 (Your signature)

Type or print name RONALD CLEVELAND
 Register Number: N90847
VIENNA Correctional Center
 Box 6695 STATE - RT. 146 EAST
VIENNA, Illinois 62995
 (Petitioner/Respondent), Pro Se

1 STATE OF ILLINOIS)
) SS:
2 COUNTY OF C O O K)

3 IN THE CIRCUIT COURT OF COOK COUNTY
4 COUNTY DEPARTMENT - CRIMINAL DIVISION

5 THE PEOPLE OF THE STATE)
6 OF ILLINOIS,)

7 Plaintiff,)

8 vs.) No. 03-CR-26653

9 RONALD CLEVELAND,)

10 Defendant.)

11 REPORT OF PROCEEDINGS had at the
12 hearing in the above-entitled cause before the
13 HONORABLE LAWRENCE P. FOX, Judge of said court, on
14 the 24th day of August, 2004.

15 PRESENT:
16 HONORABLE RICHARD A. DEVINE,
17 State's Attorney of Cook County, by:
18 MS. Lori Rosen,
19 Assistant State's Attorney,
20 appeared on behalf of the People;

21
22 MR. Michael Oppenheimer,
23 appeared on behalf of the Defendant.

24 Patrick J. Flannery
Official Court Reporter
License No. 084-001220

I N D E X

1
2 G-1 to G-89 date; 8/24/04
3 DIRECT CROSS REDIRECT RECROSS
4 Defense opening: G-3
5 Eric Domingo G-4 G-10
6 Bob Giovannoni G-12 G-19
7 Nevenka Gould G-21 G-30
8 Tim Anderson G-35 G-54 G-61 G-63
9 Ofc. Moriarty G-65 G-71
10 People rest; G-74
11 Motion directed verdict; G-74
12 Ruling; G-81
13
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1 THE CLERK: Ronald Cleveland.

2 MR. OPPENHEIMER: Afternoon, Judge.

3 THE COURT: Afternoon.

4 MR. OPPENHEIMER: My name is Mike
5 Oppenheimer, O-p-p-e-n-h-e-i-m-e-r. Stepping for
6 David Wiener for Mr. Ronald Cleveland.

7 THE COURT: Okay.

8 MR. OPPENHEIMER: We answer ready for
9 trial.

10 THE COURT: Fine. He's executed a jury
11 waiver?

12 MR. OPPENHEIMER: Correct, Judge. I am
13 tendering it to the Court.

14 THE COURT: Fine. You understand by
15 signing this, Mr. Cleveland, you give up your right
16 to jury trial in this case, request that I hear the
17 case in a bench trial?

18 THE DEFENDANT:

19 A. Yes, sir.

20 THE COURT: You know what a jury trial is,
21 what it is you are giving up by signing this, is that
22 correct?

23 A. Yes, sir.

24 THE COURT: Okay. Fine. Jury waiver

1 accepted, made part of the court file.

2 And both sides are ready to proceed?

3 MR. BUNTINAS: Yes.

4 MR. OPPENHEIMER: Yes.

5 THE COURT: Okay. Either side wish to make
6 an opening statement.

7 MR. BUNTINAS: State waives.

8 MR. OPPENHEIMER: Judge, I will make a
9 brief opening.

10 THE COURT: Go ahead.

11 OPENING STATEMENT

12 BY; MR. OPPENHEIMER:

13 MR. OPPENHEIMER: Judge, what this case
14 really is about beyond a reasonable doubt Mr.
15 Cleveland is charged with taking, entering a room,
16 that is the the pathology unit at Michael Reese
17 Hospital, and taking 4 microscopes.

18 The evidence that you will hear belies
19 that. What you will hear, what you will see is a
20 videotape showing someone going into suites, offices,
21 offices somewhere at Michael Reese Hospital, removing
22 garbage bags, carrying those bags. All this is, this
23 case is not about microscopes, this is about garbage
24 bags.

1 That is what you will hear. And the State
2 will be unable to prove their case beyond a
3 reasonable doubt.

4 THE COURT: State, call your first witness.

5 MS. ROSEN: Yes. Our first witness is Eric
6 Domingo, E-r-i-c, D-o-m-i-n-g-o.

7 THE COURT: The charge in the case is
8 burglary. It is Class 2 felony punishable by 3 to 7
9 years in the Illinois Department of Corrections.
10 Right. Okay.

11 MS. ROSEN: Yes.

12 THE COURT: Okay. Stand and raise your
13 right hand, sir.

14 (Witness sworn.)

15 ERIC DOMINGO,
16 called as a witness herein, after having been first
17 duly sworn, was examined and testified as follows;

18 DIRECT EXAMINATION

19 By; Ms. Rosen:

20 THE COURT: Be seated, please.

21 MS. ROSEN:

22 Q. Mr. Domingo, could you state your name,
23 spell your first and last name?

24 A. My name is Eric Domingo, E-r-i-c,



**OFFICE OF THE STATE APPELLATE DEFENDER
FIRST JUDICIAL DISTRICT**

203 NORTH LASALLE STREET
24TH FLOOR
CHICAGO, ILLINOIS 60601
TELEPHONE: 312/814-5472
FAX: 312/814-1447

MICHAEL J. PELLETIER
DEPUTY DEFENDER

June 1, 2007

GINGER LEIGH ODOM
ASSISTANT APPELLATE DEFENDER

Mr. Ronald Cleveland
Register No. N-90847
Western Illinois Correctional Center
R.R. # 4, Box 196
Mt. Sterling, IL 62353

Dear Mr. Cleveland:

Enclosed find a copy of the court's order allowing my motion to withdraw as counsel and affirming your conviction. This means that your conviction and sentence stand. Our representation of you has come to an end and your file will be closed. However, our decision to close your case does not prevent you from appealing your case further on your own. The following pages describe the procedures necessary to urge higher courts to look at your case.

I am very sorry that there was nothing that we could do for you. Good luck.

Sincerely,


GINGER LEIGH ODOM
Assistant Appellate Defender

cc: Docketing cl23
SADA No. 102116

NOTICE

The text of this order may be changed or corrected prior to the time for filing of a Petition for Rehearing or the disposition of the same.

SECOND DIVISION
May 29, 2007

ODOM

No. 1-06-0409

IN THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

THE PEOPLE OF THE STATE OF ILLINOIS,)	Appeal from the
)	Circuit Court of
Plaintiff-Appellee,)	Cook County.
)	
v.)	No. 03 CR 26653
)	
RONALD CLEVELAND,)	Honorable
)	Lawrence P. Fox,
Defendant-Appellant.)	Judge Presiding.

O R D E R

Following a bench trial, defendant Ronald Cleveland was found guilty of burglary. He was then sentenced as a Class X offender to 15 years' imprisonment.

Defendant appealed, and the State Appellate Defender, who was appointed to represent him, has filed a motion for leave to withdraw as counsel. In support of her motion, counsel has submitted a brief pursuant to Anders v. California, 386 U.S. 738, 18 L. Ed. 2d 493, 87 S. Ct. 1396 (1967), in which she concludes that there are no meritorious issues to be raised. Copies of the brief and motion were sent to defendant and he was advised that he might submit any points in support of his appeal. Defendant has filed two *pro se* responses in which he raises multiple contentions of error, including a claim that the State failed to prove him guilty beyond a reasonable doubt.

1-06-0409

In accordance with the mandate of the Anders decision, we have carefully reviewed the record in this case, the aforesaid brief, and defendant's *pro se* responses and have found no issues of arguable merit to be raised on appeal. Viewed in the light most favorable to the prosecution, we find that the evidence adduced at trial was sufficient to allow the jury to find that the elements of burglary were proved beyond a reasonable doubt. People v. Williams, 193 Ill. 2d 306, 338 (2000).

Dr. Nevenka Gould testified that on November 14, 2003, she left the pathology department of Michael Reese Hospital at 6:50 p.m. She returned the next morning about 9:30, and noticed that the lock and door frame of another doctor's office had been damaged and the microscope inside was missing. Dr. Gould looked down the hallway and saw that four offices had been broken into and that four microscopes were missing. She described the microscopes as being about 10 to 12 inches by 6 to 8 inches in size, and weighing between 5 and 7 pounds.

Timothy Anderson testified that he was the director of human resources at the hospital on the date in question and was responsible for security. He testified that swipe cards were used to gain entry to the pathology department, but that custodians did not have swipe card access.

On November 15, 2003, Anderson viewed a surveillance tape which had recorded the pathology department from 5 p.m. on

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November 14, 2003, to 9 a.m. the next day. While watching the black and white tape in time-lapse speed, Anderson saw defendant, a hospital employee whom he recognized from previous encounters, looking through the windows of the office doors, entering four of those offices, and exiting with bags full of something. Defendant deposited the bags in a certain area of the department, then collected them and exited through a side door.

On cross-examination, Anderson acknowledged that because the surveillance tape was in black and white, he could not determine what color bags defendant was carrying. He also stated that the tape did not show the interior of the offices or defendant actually removing the microscopes from the offices.

Bob Giovannoni testified that in November 2003, he was the manager of environmental services at Michael Reese Hospital. In that position he supervised all of the housekeeping employees, including defendant, who was working from approximately 2:30 p.m. to 11 p.m. on November 14, 2003. On that date, defendant was not assigned to clean the pathology department. Giovannoni further testified that, in the hospital, clear garbage bags are used for regular waste, red bags are used for biohazardous waste, and black bags are not used.

UNTRUE → Chicago police officer Moriarty testified that he arrested defendant and advised him of his Miranda rights. After learning that officers had recovered a video surveillance tape, defendant

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told Officer Moriarty that all of the office doors were unlocked and that all he had carried out were four red plastic bags. Officer Moriarty further testified that no microscopes were recovered from defendant, his house, or his car.

In light of these facts, we disagree with defendant's contention that it was contrary to human experience for the trial court to infer that the plastic bags could support the weight of the microscopes without tearing. We also find defendant's argument that his presence in the pathology department could be explained by his employment at the hospital to be belied by the record, and note that the trial court was not "required to elevate to the status of beyond a reasonable doubt any shred of evidence compatible with innocence." People v. Rogers, 77 Ill. App. 3d 989, 991 (1979).

We also reject defendant's contention that counsel, David Wiener, rendered ineffective assistance for failing to view the video tape and telling defendant that there was nothing on it. The record shows that at the separate Krankel hearing held on this and other claims of ineffective assistance raised by defendant in the trial court, Wiener testified that he did not view the tape because the proper equipment to view a "fast time" recording was unavailable. He also testified that, one week before trial, the State indicated that it had not yet found a machine that could play the tape and did not plan to use the tape

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at trial. Thus, the record shows that Wiener's representation did not fall below an objective standard of reasonableness under prevailing professional norms. Strickland v. Washington, 466 U.S. 668, 687-88, 80 L. Ed. 2d 674, 104 S. Ct. 2052 (1984).

Moreover, defendant did not suffer prejudice because Wiener did not represent him at trial due to a scheduling conflict. The record shows that the attorney who actually represented defendant at trial, Michael Oppenheimer, viewed the tape before doing so. Thus, defendant's contention of ineffective assistance of counsel lacks merit. Strickland, 466 U.S. at 687-88.

We reach the same conclusion with regard to defendant's claim of ineffective assistance of trial counsel Oppenheimer. Defendant specifically contends that Oppenheimer was ineffective for viewing the tape just prior to trial, for failing to seek a plea agreement from the State after learning how damaging the evidence on the tape was, for failing to inform defendant of the number of State witnesses that would testify against him, and for being ill-prepared to present defendant's time card as evidence. With regard to the first contention, the record shows that counsel's conduct was reasonable in light of the fact that no machine to view the tape had been located until that time, and defendant has not shown how he was prejudiced by the timing of counsel's viewing. Thus, defendant has not established that counsel rendered ineffective assistance in that respect.

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Strickland, 466 U.S. at 687-88.

The remaining contentions relating to Oppenheimer's purported ineffectiveness involve matters outside of the record and, thus, are not proper subjects on direct appeal. People v. Brown, 249 Ill. App. 3d 986, 994 (1993). The same is true of the correspondence and affidavits relating to defendant's ineffective assistance of counsel claims which he provided in his second response to appellate counsel's motion to withdraw. Brown, 249 Ill. App. 3d at 994.

We further find defendant's assertion that his Krankel hearing was defective to be without merit. The trial court fulfilled its duty to inquire into defendant's *pro se* claims of ineffective assistance of counsel by conducting a hearing at which both Wiener and Oppenheimer responded to the allegations. People v. Moore, 207 Ill. 2d 68, 77-78 (2003). The responses provided by the attorneys and the trial record support the trial court's determination that defendant's claims were without merit.

In addition, contrary to defendant's assertion, we find that certain comments made by the trial court during defense counsel's cross-examination of State witnesses are not indicative of bias against him. Rather, the comments constituted proper exercise of the trial court's authority to limit the scope of cross-examination. People v. Fontana, 251 Ill. App. 3d 694, 702-03 (1993).

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Defendant's contention that his sentence is void because the trial court never advised him of the possibility of an extended sentence is equally without merit. Trial courts are required to provide detailed admonishments regarding the possible minimum and maximum sentence a defendant faces only in the case of a guilty plea. People v. Burcham, 208 Ill. App. 3d 939, 942 (1991). Here, defendant pleaded not guilty and was convicted after a trial, and therefore was subject to any sentence the trial court chose to impose at the sentencing hearing, as long as it was within the relevant statutory range. Burcham, 208 Ill. App. 3d at 942.

➔ Finally, contrary to defendant's assertion, his sentence of 15 years' imprisonment was not excessive. Defendant's sentence was within the statutory guidelines which mandated that, as a Class X offender, he be sentenced to between 6 and 30 years' imprisonment (730 ILCS 5/5-5-3(c)(8) (West 2004); 730 ILCS 5/5-8-1(a)(3) (West 2004)). This sentence was proportionate to the nature of the offense defendant committed and we find no basis to conclude that the trial court abused its discretion in imposing it. People v. Costello, 224 Ill. App. 3d 500, 510-11 (1992).

Accordingly, we grant the motion of the State Appellate Defender for leave to withdraw as counsel, and affirm the judgment of the circuit court of Cook County.

Affirmed.

Wolfson, P.J., with South, and Hall, JJ., concurring.

No. 1-06-0409

IN THE APPELLATE COURT OF THE STATE OF ILLINOIS

FIRST JUDICIAL DISTRICT

PEOPLE OF THE STATE OF ILLINOIS)	Appeal from the Circuit Court	FILED
Plaintiff-Respondent,)	of Cook County, Illinois	
-V.-)	No. 03 CR 26653	
RONALD CLEVELAND,)	Hon. Lawrence P. Fox	
Defendant-Appellant.)	Judge Presiding.	MAR 06 2007
		STEVEN M. RAVID
		CLERK

MOTION IN OPPOSITION TO APPOINTED COUNSEL'S
MOTION TO WITHDRAW UNDER Anders v. California

Appellant, RONALD CLEVELAND, acting in pro se, comes now before this Honorable Court and requests the Court to Appoint New Counsel to argue meritorious issues that appellant has preserved for review; or in the alternative, to direct appellant's current counsel to proceed with his appeal. In support thereof Appellant States as follows;

1) Following a bench trial, Appellant was found guilty of the charge of burglary on August 24, 2004. In a subsequent hearing regarding sentencing Appellant complained on record that he had received ineffective assistance of trial counsel (10/1/04). The Trial Court held a hearing on the matter on October 18, 2004, where it erroneously held that defendant received effective assistance and sentenced him to a period of fifteen years in the I.D.O.C. (K4-K27).

2) On appeal the State Appellate Defender was appointed. Asst. Appellate Defender Ginger Leigh Odom filed an Anders, brief to withdraw. The brief was filed on January 24, 2007. Appellant now give arguments that he believes contain merit, and reasons for this Court to deny counsel's Anders Brief and order that his appeal

proceed forward.

In Anders v. California, 386 U.S. 738, 18 L.Ed.d 493, 87 S.Ct. (1967) The Supreme Court held "that the Constitutional right to counsel requires that on an indigent's first appeal from his conviction , court appointed counsel support the appeal from the best of his ability, requesting permission to withdraw only if he finds the case to be wholly frivolous, in which event [he] must file a brief referring to anything in the record that might arguably support the appeal." Appellant has meritorious Constitutional issues that need to be addressed by this Honorable court including;

SUFFICIENCY OF EVIDENCE/BEYOND REASONABLE DOUBT

A criminal conviction will not be set aside unless the evidence is so improbable or unsatisfactory that it creates reasonable doubt of defendants guilt. People v. Vriner (9178) 74, Ill.2d 329,342, 24 Ill. Dec. 530,535,585 N.E.2d 671, 676. When trier of fact in a burglary case decides whether evidence was sufficient to infer defendant's intent to commit theft, relevant circumstances it should consider include time, place and manner of entry into premises, and any alternative explanations which may explain his presence. People v. Hopkins 2229 Ill. App.3d 665 593 N.E. 2d 1028.

In the case at bar petitioner could explain his presence at a hospital where he had worked for over 10 years. None of the witnesses were present when the burglary occurred. All that exists is a video tape of Mr. Cleveland seen entering a hallway and enter what appears to be a few offices. Then he appears again throwing out bags. There is no proof whatsoever that the bags contained the stolen microscopes (R.G77) The trial court stated it took into consideration the fact

ba 7 77

that appellant was seen in the video breaking into offices with some sort of tool while wearing gloves (SR.81-82). However the testimony of Tim Anderson (Director of human resources) refutes that this was on the video. During Cross examination he conceded that from the tape it could not be determined how the person got in, whether they were let in or whether they used a swipe card (R.G-57). If you subtract the statement by the court that the defendant was seen on video breaking into the rooms there exists reasonable doubt. Further it is unlikely at best that steel microscopes that were 15 inches high and a base of 12 square inches would not tear a plastic bag. Where evidence is unreasonable, improbable or unsatisfactory as to justify a finding of guilt the case should be reversed. In this case it is contrary to human experience that the bags would not tear, or that someone who had a swipe card did not let defendant into the offices for legit purposes. Moreover, defendants supervisor could not remember the exact hours that petitioner worked on the night in question R.G.161 (j-4,5)

II. INEFFECTIVE ASSISTANCE OF COUNSEL

A. Failure to prepare for trial/ misrepresenting facts to client.

This case and conviction pivoted on one single piece of evidence, a video cassette of defendant allegedly breaking into offices at Michael Reese Hospital where he worked. Surely, it can't be said that the failure to view a single and very damaging piece of evidence was trial strategy. That is exactly what occurred here. (J-22) Paid attorney Wiener clearly states that he failed to view the tape because it was in fast time. He stated he believed that the tape (E-3) would not be used and misrepresented to defendant that there was

nothing on the tape (R.6,7). Had defendant actually been made aware of the weight of this evidence he would not have opted to go to trial. It was not defendants best possible option to be blindly led into an ambush by the state, and his decision to elect a trial was made unknowingly and uninformed. Instead of discussing defense strategies , stand in attorney Mr. Oppenheimer should have told defendant how damaging the tape was and further should have sought a plea agreement.

B. There was some discussion about the time that defendant was working (R.G.16). Defense counsel should have been prepared to present the time card that actually represented the time defendant worked. His failure to do so was prejudicial to this case as it left the inference that defendant had no reason to be at work during the time that he was taped (SR.18-19). (R.G-84)

C. Petitioner was never made aware that his case was being passed on to another attorney. Stand in Attorney Oppenheimer openly admitted that he had not viewed the tape until just prior to the trial.

D. Petitioner was not informed of how many witnesses would testify nor the gravity of the evidence against him. (R.K6-7)

E. Defendant would also claim that the Krankel hearing was also defective because the judge abused his discretion in finding that he had been afforded effective assistance of counsel when trial counsel never made defendant aware of how damaging the tape was. Defense counsel 's performance was not only ineffective, but counsel abandoned the required duty of loyalty to his client, he acted in total disregard for his clients best interest , and absent the errors the end result would have been different. There exist so many cases

that could support the ineffective assistance of counsel that petitioner hopes that appointed counsel will opt or be required to assist him with these issues, as he is unsure how to proceed.

III. THE TRIAL COURT WAS PREDISPOSITIONED AGAINST DEFENDANT

Trial counsel's failure to object to improper comments and prejudicial remarks made by trial court may constitute ineffective assistance of counsel. Pocaro V. United States, 784 F.2d 38 (1st Cir. 1986).

From the very onset of this case the trial court shunned and attempted to intimidate trial counsel with remarks that indicated the court was predispositioned in favor of the State and their witnesses. Early in the trial before evidence was ever presented while trial counsel was in the process of cross examining the states first witness asked; Sir you did not see my client enter into the pathology unit? The court snapped " Now why would you ask?" Ok Go ahead. I mean he is not saying that, so you dont understand he doesnt need to be" (R.G-20). Then in response to the states objection the court remarked "the word know is not a good word we dont know what that means" and further comments "Fine I didnt think there were any questions really" (R.G-21). . While trial counsel was asking questions concerning the purchases of the alleged stolen material the court remarked "Come on" "those questions don't need to be asked "(R.G.-65). and again later the court remarked "you want to argue?" (R.G-75). The trial courts attitude throughout the entire trial no doubt had an effect on the end result and the outcome of the Krankel hearing to determin the effectiveness of trial counsel.

**IV. THE COURT FAILED TO MAKE DEFENDANT AWARE THAT HE WAS FACING
AN EXTENDED TERM PRIOR TO TRIAL**

At no time prior to trial did defense counsel, the state or the court ever inform defendant that he was in fact facing an extended term. The trial court remarked "The charge in this case is burglary. It is Class 2 felony punishable by three to seven years in the Illinois Department of Corrections. Right. Okay" (R. G-5). Then later sentenced him to a sentence of 15 years. (K21,C.69) Had defendant known that he was eligible to the extended term or that the the video was damaging to his defense he would have opted to request a plea offer.

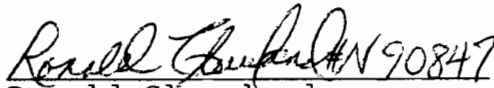
Since he was never informed of the enhancement he should be held to the stipulations of the trial court and a sentence of 3 to 7 years. "A sentence which does not conform to a statutory requirement is void." People v. Arna, 168 Ill.2d 107,113,658 N.E. 2d 445 (1985). Notably the Illinois Supreme Court has granted Leave to appeal in the case of People v. Waltrip, 207 Ill.2d 626,807 N.E. 2d 981 (2004) No.97299) on the issue of whether the add on sentence is found unconstitutional, the proper remedy is to strike the additional years and allow to remain the judicially imposed portion of defendants sentence. Thus since defendant was never pre-warned that the add on existed prior to trial he should have his sentence reduced to 7 years in the Illinis Department of Corrections.

In addition to the aforementioned arguments defendant would greatly appreciate a review of the arguments considered by the Appellate defender on page 14 of her Anders Brief. Specifically defendant was under the opinion that his sentence was excessive in light of the fact that his past convictions happened more than

ten years ago and since that time he has maintained a steady work history. (C.26) (J-11)(j-3,8)

WHEREFORE, for reasons stated herein, Appellant, RONALD CLEVELAND, prays that this honorable Court will deny Counsel's Motion to withdraw, and order said counsel to proceed with the appeal; or in the alternative, to appoint substitute counsel to represent Appellant on appeal.

Respectfully submitted,


Ronald Cleveland
Reg No.
Western Illinois C.C.
R.R.4, Box 196
Mt. Sterling Illinois
62353

STATE OF ILLINOIS) SS
COUNTY OF BROWN)

VERIFICATION

I, Ronald Cleveland, pro se, hereby duly swears under penalties provided by law pursuant to sec.1-109 of the Code of Civil Procedure, that I am the Appellant in this cause, and that the statements set forth in the forgoing motion and this affidavit are both true and correct except as to matters therein stated to be on information and belief, and that such matters are true and correct based on belief.


Ronald Cleveland

No. 1-06-0409

PEOPLE OF THE STATE OF ILLINOIS)
Plaintiff- Respondant) Appeal from the Circuit Court
) of Cook County, Illinois
-vs.-)
) No. 03 CR 26653
RONALD CLEVELAND,)
APPELLANT- DEFENDANT.)

NOTICE OF FILING/PROOF OF SERVICE

STEVEN M. RAVID, The Clerk of
the Appellate Court 1st Dist.
160 North LaSalle 14th Floor
Chicago Il. 60601

PLEASE TAKE NOTICE that on FEB. 28th, 2007 I have
listed below in the institutional mail at Western Illinois C.C.
properly addressed and with the correct postage for mailing through
the United States Postal Service; 4 copies of Appellants
MOTION IN OPPOSITION TO APPOINTED COUNSEL'S MOTION TO WITHDRAW

Pursuant to 28 USC 1746, 18 USC 1621 or 735 ILCS 5/109, I
Ronald Cleveland declares under penalty of perjury, that I am
the named party in the above action, taht I have read the above
documents, and that the information contained therein is true and
correct to the best of my knowledge.

FEB. 28th, 2007

Ronald Cleveland N90847
Ronald Cleveland pro se
Reg No. N-90847
R.R.4, Box 196
Mt. Sterling, Il 62353

DOROTHY BROWN
CLERK OF THE CIRCUIT COURT



Criminal Division
2650 South California Avenue
Room 526
Chicago, Illinois 60608
(773) 869-3147
FAX (773) 869-4444
www.cookcountyclerkofcourt.org

OFFICE OF THE CLERK OF THE CIRCUIT COURT OF COOK COUNTY

June 16, 2008

Ronald Cleveland #N90847
Vienna C.C.
6695 State Rt. 146 East
Vienna, IL 62995

Dear Ronald Cleveland:

RE: Case Number 03CR2665301

Please be advised that on 06/11/08, the Honorable Judge Lawrence P. Fox denied your motion for Production of Documents. Previous Order to stand.

If you have additional questions regarding this ruling, please contact your attorney, or the public defender.

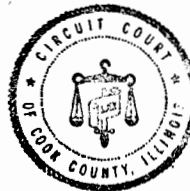
Office of the Public Defender, Cook County
2650 South California Avenue
7th Floor
Chicago, IL 60608
(773) 869-3222

Sincerely,
Dorothy Brown
Clerk of the Circuit Court of Cook County, Illinois

By: 

CCCR EF18-2/4/2007. Motion Denied Letter.

Deputy Clerk



MISSION STATEMENT

The mission of the office of the Clerk of the Circuit Court of Cook County is to serve the citizens of Cook County and the participants in the judicial system in a timely, efficient and ethical manner. All services, information and court records will be provided with courtesy and cost efficiency.